

From: David M. Reed
To: Microsoft ATR
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Subject: Microsoft Settlement

For the past two years I have compared Microsoft to someone who appears in court for breaking the speed limit -- doing 75 MPH in a 65 MPH zone. One of their primary arguments is that things have changed -- that stretch of road now has signs posted for 75 MPH -- and therefore they can not be guilty of breaking the law. In fact, they believe the limit may soon be 85 MPH in that area, so their actions were well within the law!

In other words, they don't believe the law applies to them. And if it did, things are changing "so fast" that it is irrelevant -- for the "natural order of things" is such that they should not be found guilty of violating a 65 MPH law since whatever they might have done wrong then doesn't apply today or tomorrow.

I have been involved with support of Microsoft products for over 15 years now. When Microsoft Windows 3.1 was appearing, I learned of Microsoft practices which I considered unethical. That behaviour continued (and to a great extent, got much worse over the years), but I did not know that much of it was actually illegal until I read the Department of Justice document against Microsoft in 1999. In particular, I quickly and clearly understood that what might be unethical for a new or small company could become illegal when done by a company which has a monopoly.

Having a job which involves supporting various operating systems and applications, I understood very clearly a number of facts which Microsoft, in their arrogance, felt that a judge could never understand and rule on.

I was shocked by Microsoft childish attempts to claim they did not have a monopoly with their Operating Systems! I understood very clearly that a browser is an application (something the user directly interacts with) that was NOT a part of the OS, no matter what Microsoft did to "integrate" it -- for if it were really a "part of the OS", then you could NOT run it on other operating systems, such as the MacIntosh or various Unix systems. Thus, to have included a major application "for free" (or "bundled") with the OS for

which they have a monopoly is clearly using one monopoly to achieve another -- at the clear expense of competitive products (and thus to the detriment of consumer choice, usability, etc.).

I was thrilled the court found Microsoft clearly guilty of these violations of law. But then, to my great dismay, they were to negotiate a "settlement". When was a murder, a car thief, or anyone else guilty of violating a serious crime against the community, ever allowed to "negotiate" or given any opportunity to propose how they should be punished!

I am angered by the extremely weak "settlement" the DOJ has proposed. I find it only slightly might limit some part of Microsoft's future actions. (But I doubt that, as Microsoft's brilliant minds have already demonstrated they will come up with some way to circumvent the law and rulings, such as their "integrating" the browser into the OS so that it could not be considered a separate application, and thus could not be "bundled". In other words, they moved to make it appear they could not be guilty of using one monopoly --the OS-- to obtain another monopoly --with browsers-- for they could then claim the browser was not "separate", and being "part of the OS", they could not have violated any law!)

And there is nothing I can find that actually might be considered a punishment of Microsoft for having broken the law! They continue to flagrantly break the very same laws even now! (After all, if there is seemingly no punishment, and they can earn billions of dollars per month doing so, then they can certainly afford millions of dollars per month to tell the U.S. government that the laws do not apply to them.)

What they did to Netscape and the browser market was NOT the first time they have utilized their monopoly position to extinguish a competitor -- they had done it many times before. Their recent Windows XP release clearly shows they are continuing to do that. With that, the cost of the OS continues to stay the same (or increase), in comparison to the PC hardware market, where choice abounds and every couple of years you can buy more than twice the system for less.

Name virtually any computer hardware component, and

you will find a multitude of competitors, offering increased performance and features, and continually declining prices. That is NOT happening in the OS market.

The browser competition made it hopeful that the choice of OS would become very unimportant. Microsoft has worked hard to make it so that there are almost no other viable browser competitors. (And since one comes free with the OS which is sufficiently capable, why would anyone consider getting an alternative -- whether it cost money or was free.)

Worse, Microsoft continues to do things to make it so that users will only want to use their browser, by implementing "non-standard" features, or by NOT implementing standard features. Or even when they set the defaults for web page creation using their FrontPage program which are set to function best (or even only) on a PC (preferably with their Internet Explorer).

Again, their tactics are more than simple "free market competition". And there are laws against it (even if they or others don't think those laws should apply). And they have been found guilty of violating those laws. Now it is up to the court to do two very crucial things:

- 1) Assure Microsoft is SEVERELY PUNISHED for having flagrantly violated the law (including "thumbing their noses at the court", plus their continuing violation, which they don't believe is "wrong").
- 2) Structure a "remedy" that will help prevent (or at least seriously discourage) Microsoft from doing more of the same --and similar-- violations.

In the early 1990's, not knowing they were actually violating laws, I strongly proposed to many people that a kind of "Chinese wall" be created in Microsoft so that the OS groups are nearly fully isolated from the application groups. I have been convinced for years that Microsoft should be literally broken up into separate companies.

The only change in my belief is that now instead of two companies, they should now be broken up into at least three: OS, applications, and media/internet.

I firmly believe that is best for the consumers, and for the court system. (Overseeing Microsoft is neither good for the company nor the courts nor the consumers. So long as Microsoft remains one company with so many parts, and such a background of behaviour, they will continue trying to circumvent the law, ending back in court a lot.)

If Microsoft were a "person", the only way to prevent them from their habitual criminal activity would be to "lock them in prison", where they would be less capable of harming the consumer! (And as punishment for their crimes, together with payment of fines and possibly confiscating the property they used in, and for, committing their crimes.)

It seems rather harsh, and may even jeopardize some of my career (that has been spent so extensively in supporting Microsoft products). But I know that consumers have been hurt, I know that Microsoft has broken the law, I know that Microsoft does not want to obey the law (they truly believe it does not apply to them!), and that for justice to be done, Microsoft must be punished, and prevented from further crimes against consumers and the market.

In advance I thank those involved who will NOT consider these issues politically, nor simply approach it as allowing Microsoft to "buy their freedom to violate the law". Please see that justice is done. (And since they show not even a semblance of guilt or repentance, mercy does not need to be considered!)

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